IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 151 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

BHOGILAL BHAICHANDBHAI

Versus

COMMISSIONER OF INCOME TAX

Appearance:

1. INCOME TAX REFERENCE No. 151 of 1986
MR JP SHAH for Petitioner No. 1
MR MANISH R BHATT for Respondent No. 1

CORAM : MR.JUSTICE A.R.DAVE
and
MR.JUSTICE D.A.MEHTA

Date of decision: 10/07/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE A.R.DAVE)

1. At the instance of the assessee, the following question has been referred to this Court for its opinion under the provisions of Sections 256(1) of the Income Tax Act, 1961 (herein referred to as the `Act'), by the Income Tax Appellate Tribunal, Ahmedabad Bench `C'.

"Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the capital gain arising on sale of agricultural land was liable to tax?"

2. Learned advocate Shri Manish Shah has appeared for the applicant-assessee and learned advocate Shri Akil Kureshi has appeared for the respondent.

3. Looking to the law laid down by the Honourable Supreme Court in case of Singhai Rakesh Kumar v. Union of India 247 ITR 150. In our opinion the question which has been referred to this Court will have to be answered in the affirmative. Accordingly, we answer the question in affirmative i.e., in favour of the revenue and against the assessee.

The reference stands disposed of with no order as to costs.

10.7.2001. (A.R. Dave, J.)

(D.A. Mehta, J.)

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